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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,461	03/02/2001	Esteban Cvitkovich	4512/80212	9636
27123	7590	11/09/2004	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			SPIVACK, PHYLLIS G	
			ART UNIT	PAPER NUMBER
			1614	

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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PAPER
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110704

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**Commissioner for Patents**

The Amendment filed August 25, 2004 canceled all original claims that were directed to a pharmaceutical formulation comprising ET743 for intravenous infusion and methods of treating cancer, optionally, in a human patient with advanced and/or metastatic cancer, who had been previously treated; or treating cancer that is resistant or refractory to other treatments; treating sarcoma, soft tissue sarcoma, bone sarcoma, breast cancer; or treatment regimens wherein specific dosages and dosing schedules were recited. The originally presented invention had been constructively elected by original presentation for prosecution on the merits. Subsequent to the most recent Amendment, the newly presented claims, drawn to methods of treatment of cancer in a human patient comprising administering Et 743 in cycles by intravenous infusion at intervals of about 1-6 weeks with an infusion time of about 2 to about 24 hours, wherein the dosages and dosing regimen, as well as types of cancers, overlap with, or are distinct from, the subject matter originally presented. Thus the present claims are drawn to non-elected subject matter. Accordingly, the Response filed August 25, 2004 is nonresponsive (MPEP 821.03). The remaining claims are substantially not readable on the elected invention. Further search and consideration are required. Applicants are given a ONE MONTH time limit or until the expiration of the response period set in the last Office Action, whichever is longer, to complete the response. NO EXTENSION OF THIS TIME LIMIT WILL BE GRANTED UNDER EITHER 37 CFR 1.136(a) OR (b), but the period for response set in the last Office Action may be extended up to a maximum of SIX MONTHS.

Any inquiry concerning this communication should be directed to Phyllis Spivack at telephone number 571-272-0585.

*Phyllis Spivack*  
**PHYLLIS SPIVACK**  
**PRIMARY EXAMINER**

Phyllis G. Spivack  
Primary Examiner  
Art Unit: 1614  
November 7, 2004